

AMENDED IN SENATE AUGUST 13, 1998

AMENDED IN SENATE JUNE 29, 1998

AMENDED IN SENATE MARCH 24, 1998

AMENDED IN ASSEMBLY JANUARY 8, 1998

AMENDED IN ASSEMBLY JULY 31, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1397

Introduced by Assembly Members Gallegos and Honda
(Coauthors: Assembly Members Baca, Cardenas, Knox,
Kuehl, Machado, Murray, and Villaraigosa)
(Coauthors: Senators Polanco, Vasconcellos, and Watson)

February 28, 1997

An act to add ~~Sections 1256.2 and 1463~~ *Section 1256.2* to the Health and Safety Code, and to add Section 14132.42 to the Welfare and Institutions Code, relating to health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1397, as amended, Gallegos. Public health: Medi-Cal: maternity benefits and services: county patients.

Existing law provides for the Medi-Cal program, administered by the State Department of Health Services, under which qualified low-income persons are provided with health care services. Existing law also authorizes the board of supervisors in each county to establish and maintain a county hospital, and to enter into various contracts for the provision of medical services.

This bill would prohibit a county, or contractor or subcontractor thereof, including a health plan that provides or contracts to provide Medi-Cal services, from interfering with the medical judgment of a health care professional acting within the scope of his or her practice, but would not prohibit a county, contractor, subcontractor, or health plan from adopting protocols or guidelines consistent with accepted medical practice, provided that the guidelines do not supersede the judgment of a health care provider when treating a particular patient.

This bill would provide that benefits under the Medi-Cal program shall not be restricted for inpatient hospital care to a time period less than 48 hours following a normal vaginal delivery and less than 96 hours following delivery by caesarean section, except where certain conditions are met.

This bill would, in accordance with specified findings and declarations, prohibit a general acute care hospital from promulgating policies determining differing standards of *obstetrical* care based upon a patient's source of payment or ability to pay for medical services. It would declare that to deny or threaten to withhold pain management services from a woman in active labor, based on the patient's source of payment or ability to pay, shall constitute unprofessional conduct.

Existing law makes it a crime to intentionally violate provisions regulating the licensing of certain health care providers.

This bill would revise the definition of a crime by revising the duties of licensed providers, thereby resulting in a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that no reimbursement is required by this act for a specified reason.



Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares as
2 follows:

3 ~~(a) It that it is unethical for a health care provider to~~
4 ~~deny pain management assistance, or to threaten to~~
5 ~~withhold treatment, based upon a patient's source of~~
6 ~~payment, or ability to pay for medical services.~~

7 ~~(b) Los Angeles County has paid twenty-four million~~
8 ~~dollars (\$24,000,000) to settle 49 claims that women on~~
9 ~~Medi-Cal died or were injured by vaginal deliveries, due~~
10 ~~to a county policy discouraging deliveries by caesarean~~
11 ~~section.~~

12 ~~(c) Recent reports indicate that anesthesiologists at~~
13 ~~Northridge Medical Center refused to administer~~
14 ~~pain-relieving epidurals to women in labor because these~~
15 ~~patients could not afford to pay for the procedure with~~
16 ~~cash.~~

17 SEC. 2. Section 1256.2 is added to the Health and
18 Safety Code, to read:

19 1256.2. (a) (1) No general acute care hospital may
20 promulgate policies or implement practices that
21 determine differing standards of *obstetrical* care based
22 upon a patient's source of payment or ability to pay for
23 medical services.

24 (2) *Each hospital holding an obstetrical services*
25 *permit shall provide the licensing and certification*
26 *division of the department with a written policy*
27 *statement reflecting paragraph (1) and shall post written*
28 *notices of this policy in the obstetrical admitting areas of*
29 *the hospital by July 1, 1999. Notices posted pursuant to this*
30 *section shall be posted in the predominant language or*
31 *languages spoken in the hospital's service area.*

32 (b) It shall constitute unprofessional conduct within
33 the meaning of the Medical Practice Act, Chapter 5
34 (commencing with Section 2000) of Division 2 of the
35 Business and Professions Code, for a physician or surgeon

1 to deny, or threaten to withhold pain management
2 services from a woman in active labor, based upon that
3 patient's source of payment, or ability to pay for medical
4 services.

5 SEC. 3. It is the intent of the Legislature in enacting
6 Section 3 of this act that the protections under the
7 Newborns' and Mothers' Health Act of 1997 (Chapter 389
8 of the Statutes of 1997), which added Section 1367.62 to
9 the Health and Safety Code and Section 10123.87 to the
10 Insurance Code, shall apply equally to all pregnant
11 women eligible for benefits under Medi-Cal.

12 SEC. 4. Section 14132.42 is added to the Welfare and
13 Institutions Code, to read:

14 14132.42. Benefits under this chapter shall not be
15 restricted for inpatient hospital care to a time period less
16 than 48 hours following a normal vaginal delivery and less
17 than 96 hours following delivery by caesarean section.
18 However, coverage for inpatient hospital care may be for
19 a time period less than 48 or 96 hours following a delivery
20 if both of the following conditions are met:

21 (a) The decision to discharge the mother and newborn
22 before the 48- or 96-hour time period is made by the
23 treating physicians in consultation with the mother.

24 (b) A postdischarge followup visit for the mother and
25 newborn within 48 hours of discharge, when prescribed
26 by the treating physician, is also a covered benefit under
27 this chapter. The visit shall be by a licensed health care
28 provider whose scope of practice includes postpartum
29 care and newborn care. The visit shall include, at a
30 minimum, parent education, assistance and training in
31 breast or bottle feeding, and the performance of any
32 necessary maternal or neonatal physical assessments. The
33 treating physician shall disclose to the mother the
34 availability of a postdischarge visit, including an in-home
35 visit, physician office visit, or plan facility visit. The
36 treating physician, in consultation with the mother, shall
37 determine whether the postdischarge visit shall occur at
38 home, the plan's facility, or the treating physician's office
39 after assessment of certain factors. These factors shall

1 include, but not be limited to, the transportation needs of
2 the family and environmental and social risks.

3 SEC. 5. No reimbursement is required by this act
4 pursuant to Section 6 of Article XIII B of the California
5 Constitution for certain costs that may be incurred by a
6 local agency or school district because in that regard this
7 act creates a new crime or infraction, eliminates a crime
8 or infraction, or changes the penalty for a crime or
9 infraction, within the meaning of Section 17556 of the
10 Government Code, or changes the definition of a crime
11 within the meaning of Section 6 of Article XIII B of the
12 California Constitution.

13 Notwithstanding Section 17580 of the Government
14 Code, unless otherwise specified, the provisions of this act
15 shall become operative on the same date that the act
16 takes effect pursuant to the California Constitution.

